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UNDER
SEAL

KENJI M. PRICE #10523
United States Attorney
District of Hawaii

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Oct 04, 2019
SUE BEITIA, CLERK

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL SCIUTO PONCE, (1)
ARLEY DEL RIO, (2)

Defendants.

Mag. No. 19-001023 KSC

CRIMINAL COMPLAINT

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

On or about December 21, 2018, within the District of Hawaii, MICHAEL SCIUTO PONCE and ARLEY DEL RIO, the defendants, willfully and knowingly did steal and purloin one (1) AR-15 upper receiver, one (1) plate carrier with magazine loaded with twelve (12) rounds of .40 caliber ammunition, one (1)

Motorola APX 8000 portable radio, one (1) Motorola radio battery, one (1) night vision optical viewer, one (1) green Federal park Ranger jacket, one (1) Eotech EXOS3-2 weapon sight, one (1) tactical vest with "Police" markings, and one (1) ballistic helmet, and one (1) 3M brand riot helmet, of an aggregate value exceeding \$1,000, of the goods and property of the United States, in violation of 18 U.S.C. § 641.

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this Complaint is based upon the facts set forth in the attached "Agent's Affidavit in Support of Criminal Complaint", which is incorporated herein by reference.

DATED: HONOLULU, HAWAII: October 4, 2019.


ADAM HARTMAN
Special Agent
Federal Bureau of Investigation

Sworn to under oath before me telephonically, and attestation acknowledged pursuant to Federal Rule of Criminal Procedure 4.1(b)(2).




Barry M. Kurren
United States Magistrate Judge

AGENT'S AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Adam Hartman, being duly sworn, depose and state the following:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), and have been since July 2018. I am currently assigned to the Federal Bureau of Investigation (“FBI”) Maui Resident Agency where my duties include, but are not limited to, investigating various criminal violations to include white collar crime, public corruption, crimes against children, cybercrime, organized crime, crimes involving maritime and air operations, and theft of federal government property. In addition, I have completed the FBI’s eighteen-week basic field training course in Quantico, Virginia. I am an investigative or law enforcement officer of the United States and empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 641 (Theft of Government Property). Through my training and experience, I have become familiar with the manner in which criminal offenders operate, and the efforts of those involved in such activities.

2. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other officers of the Maui Police Department (“MPD”) and witnesses. This affidavit is intended to show

merely that there is sufficient probable cause for the specified violation of federal law and does not set forth all of my knowledge about this matter.

3. This affidavit is made in support of a criminal complaint and arrest warrant for MICHAEL SCIUTO PONCE (“PONCE”) and ARLEY DEL RIO (“DEL RIO”) a violation of Title 18, United States Code, Section 641 (Theft of Government Property).

PROBABLE CAUSE AND BACKGROUND OF INVESTIGATION

4. On the evening of December 21, 2018, National Park Service Chief Ranger Ari Wong (“WONG”) parked his assigned government law enforcement vehicle on the driveway of his residence located in Kihei, Hawaii. The vehicle was a silver Chevrolet Tahoe with police light bars mounted on the exterior grill. The vehicle did not have visible insignias on the sides, but did have a “U.S. Government” license plate.

5. On December 22, 2018, WONG discovered that the doors to the vehicle were left open, the light bars located on the rear of the vehicle were bent in a fashion indicating that they had been tampered with, and various law enforcement items, previously located inside the vehicle, were missing. WONG contacted MPD and reported the several missing items, including a Multi-camouflage print level 4 body armor, a green ballistic helmet, a green medical bag, an assault rifle (AR) upper receiver, and a Motorola police radio.

6. Earlier on December 22, 2018, at approximately 4:15 am, security surveillance footage from the Grand Wailea Maui (“Grand Wailea”), a luxury hotel in Wailea, captured a white four door sedan, bearing Hawaii license plate SDR823 (the “Suspect Vehicle”) entering the employee parking structure. The Grand Wailea Maui is located less than ten miles from WONG’s residence.

7. On December 22, 2018 at approximately 6:45 a.m., Grand Wailea security officers observed PONCE on Grand Wailea property concealing what appeared to be the muzzle of a firearm beneath his coat jacket. PONCE was detained by Grand Wailea security and MPD was called to the hotel. Grand Wailea security officers recovered an AR-15 upper receiver, a police radio battery, and a screwdriver from PONCE’s possession and provided those items to MPD investigators.

8. At approximately the same time, another group of Grand Wailea security officers observed two men standing near the Suspect Vehicle, parked on the second level of the parking garage. When the officers confronted the two men, the two men fled the scene by jumping over a second story railing and running away. Shortly thereafter, Grand Wailea security officers apprehended one of the two men near the beach area. MPD took this individual into custody, and Grand Wailea security officers later identified him as one of the individuals who had fled from hotel security on foot. The individual was identified by MPD as DEL RIO.

9. On December 22, 2018 at approximately 9:25 a.m., MPD Detective Jonathan E. Acosta (“ACOSTA”) arrived at the employee parking structure of the Grand Wailea where the Suspect Vehicle was parked. Through the window ACOSTA observed a green National Park Service Ranger service jacket, a camo pattern boonie-hat, and a rifle magazine pouch. The vehicle was impounded by MPD pending a search warrant.

10. On December 22, 2019 at approximately 2:37 p.m. DEL RIO waived his *Miranda* rights and provided a post-arrest statement to ACOSTA. He stated in substance that on the evening of December 21, 2018, DEL RIO was picked up by PONCE, driving an old white Toyota sedan, and that another individual, Kainoa Stone (“STONE”) was also present. DEL RIO stated that PONCE drove to a residence in Kihei. DEL RIO stated in substance that he observed PONCE and STONE enter a Chevrolet Tahoe and remove several items, including part of a rifle, a SWAT style helmet, night vision goggles, and an oxygen mask. DEL RIO denied having entered the vehicle, but admitted that his prints would be found on the night vision goggles and the rifle upper-receiver. DEL RIO stated that STONE and PONCE returned to the Tahoe a second time to extract additional items, before the three men drove to the Grand Wailea, where DEL RIO’s girlfriend had rented a hotel room.

11. On December 22, 2018 at approximately 4:23 p.m. PONCE waived his *Miranda* rights and provided a post-arrest statement to ACOSTA. PONCE stated in substance that he borrowed his grandmother's car and picked up DEL RIO, who forced him at gun point to drive DEL RIO around while DEL RIO checked multiple cars to determine if the car was unlocked. DEL RIO ordered PONCE to pick up STONE, and ultimately to drive to a location in Kihei near an elementary school, where DEL RIO ordered PONCE at gun point to assist DEL RIO and STONE to take items from a silver SUV. PONCE stated that the group made two trips to the SUV, and that he remained in the car during the first trip, but assisted in taking items from the SUV on the second trip. PONCE stated that he drove the group to the Grand Wailea and parked the car there, and that he was bringing items to DEL RIO when he was apprehended.

12. On December 26, 2018 at about 8:15AM, MPD executed a search warrant issued by the Honorable Adrianne N. Heely of the District Court of the Second Circuit, Wailuku Division, State of Hawaii, SW No. 2018-0452 on the Suspect Vehicle which was securely stored at the MPD Kihei Station. MPD officers recovered multiple items suspected to have been stolen from WONG's vehicle, including without limitation, (1) AR-15 upper receiver, one (1) plate carrier with magazine loaded with twelve (12) rounds of .40 caliber ammunition, one (1) Motorola APX 8000 portable radio, one (1) Motorola radio battery, one (1)

night vision optical viewer, one (1) green Federal park Ranger jacket, one (1) Eotech EXOS3-2 weapon sight, one (1) tactical vest with “Police” markings, and one (1) ballistic helmet, and one (1) 3M brand riot helmet (hereafter collectively referred to as the “Subject Property”).

13. On December 26, 2019, WONG examined the Subject Property and confirmed that the Subject Property was stolen from his government vehicle. WONG further stated that the property belonged to the United States and that it had an aggregate value in excess of \$1,000.

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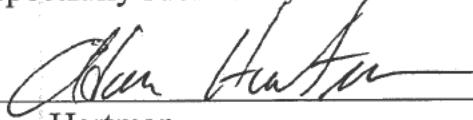
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CONCLUSIONS OF THE AFFIANT

14. Therefore, based on my training and experience and the aforementioned facts, I believe that probable cause exists that on or about December 21, 2018 in the District of Hawaii, PONCE and DEL RIO did commit Theft of Government Property, in violation of Title 18, United States Code, Section 641.

Respectfully submitted,



Adam Hartman
Special Agent
Federal Bureau of Investigation

Sworn to under oath before me telephonically, and attestation acknowledged pursuant to Federal Rule of Criminal Procedure 4.1(b)(2).

Based upon the foregoing, the undersigned Judicial Officer finds that there is probable cause to believe that defendant above-named committed the crimes charged in the Criminal Complaint, this 4th day of October, 2019





Barry M. Kurren
United States Magistrate Judge